

Message Text

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ORIGIN SS-30

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FM SECSTATE WASHDC

TO USMISSION GENEVA IMMEDIATE

INFO AMEMBASSY MEXICO

USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 031100

EXDIS

E.O. 11652: GDS

TAGS: UNCTAD, EGEN

SUBJ: CHARTER OF RIGHTS AND DUTIES OF STATES -- PERMANENT
SOVEREIGNTY

REF: GENEVA 902

1. WE SHARE YOUR REACTIONS TO DRAFT MEXICAN TEXT ON
PERMANENT SOVEREIGNTY. IT IS REASSURING THAT MEXICO
WOULD REITERATE THE PROVISIONS OF UNGA RES. 1803 (XVII)
ON RESPECTING FOREIGN INVESTMENT AGREEMENTS AND THE
POSSIBILITY OF INTERNATIONAL SETTLEMENT OF INVESTMENT
DISPUTES. HOWEVER, AMBASSADOR CASTENEDA'S DELETIONS OF
CRITICAL PROVISIONS OF PARAS 3 AND 4 OF RES. 1803 (XVII),
WHICH PROVIDE THAT FOREIGN INVESTMENT SHALL BE GOVERNED
BY INTERNATIONAL LAW AND THAT, IN CASE OF NATIONALIZATION,
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APPROPRIATE COMPENSATION SHALL BE PAID IN ACCORDANCE
WITH INTERNATIONAL LAW, ARE DELETIONS THAT ARE
UNACCEPTABLE. USG AND OTHER GOVERNMENTS OF INDUSTRIALIZED
STATES WERE ABLE TO JOIN WITH MEXICO AND VIRTUALLY ALL

OTHER LDCS IN VOTING FOR RES. 1803 (XVII) PRECISELY
BECAUSE THESE KEY REFERENCES TO INTERNATIONAL LAW WERE
INCLUDED.

2. MOREOVER, PARA 3 OF AMBASSADOR CASTENEDA'S DRAFT IS
NOT ACCEPTABLE IN THAT IT MAY BE UNDERSTOOD TO INFER
THAT ALIENS ARE LIMITED TO NATIONAL TREATMENT AND DO NOT
ENJOY A MINIMUM STANDARD OF TREATMENT UNDER INTERNATIONAL
LAW, AND IT COULD EVEN BE TAKEN AS DEBARRING DIPLOMATIC
ESPOUSAL OF CLAIMS.

3. YOU ARE ACCORDINGLY AUTHORIZED TO INFORM AMBASSADOR
CASTENEDA THAT, WHILE USG HAS GIVEN THE MOST CAREFUL
CONSIDERATION TO HIS SUGGESTIONS, IT REGRETS THAT IT
DOES NOT FIND HIS DRAFT A BASIS FOR COMPROMISE. HOWEVER,
WE LOOK FORWARD TO A CONTINUING EXCHANGE OF VIEWS WITH
GOM ON THE PROBLEM. KISSINGER

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